

REPORT

DATE: September 21, 2004
TO: Regional Council
Administration Committee
FROM: SCAG Officers
SUBJECT: Recommendations Regarding Legal Services

RECOMMENDATION: We are requesting that you approve:

1. The proposed amendments to the F&J Legal Services Agreement. (Scope of Work and Rates-See Attachment A).
2. The establishment of a Legal Services Subcommittee of the Regional Council (See Attachment B).
3. The authority of Chief Counsel to enter into contracts for legal services of less than \$25,000 in consultation with the Executive Director, General Counsel and the Legal Services Subcommittee.

SUMMARY:

As a result of an extensive review by the SCAG officers of the legal services provided to SCAG by our outside General Counsel, Colin Lennard, and our in-house Chief Counsel, Karen Tachiki, and as a result of meetings with Counsel and the Executive Director, the officers of SCAG recommend the establishment of a Legal Services Subcommittee of the Regional Council, the members of which shall be the officers of SCAG. In addition, we recommend that Chief Counsel, after consultation with the Executive Director and General Counsel, shall have authority to enter into contracts of less than \$25,000.00 and shall report the letting of said contracts to the Legal Services Subcommittee. General Counsel and Chief Counsel shall meet to eliminate any duplication of legal services at the Policy Committees and Administrative Committee.

A. Proposed Amendment To Fulbright & Jaworski Agreement For Legal Services

Enclosed for your review as Attachment A, are the Proposed amendments to the Legal Services Agreement with Fulbright & Jaworski (F&J). We are only attaching those provisions of the Agreement relating to "Scope of Work" and a chart relating to the proposed changes in F&J rates under the Agreement. We have not included the rest of the provisions of the Agreement since they are boiler plate provisions required by CalTrans.

B. Legal Services Subcommittee

Enclosed for your review as Attachment B, is our recommendation as to the specific duties, obligations and other matters required of the Legal Subcommittee.

C. Requested Action

We are requesting that you approve:

1. The proposed amendments to the F&J Legal Services Agreement. (Scope of Work and Rates-See Attachment A).
2. The establishment of a Legal Services Subcommittee of the Regional Council (See Attachment B).
3. The authority of Chief Counsel to enter into contracts for legal services of less than \$25,000 in consultation with the Executive Director, General Counsel and the Legal Services Subcommittee.

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ATTACHMENT A

PROPOSED AMENDMENTS TO LEGAL SERVICES CONTRACT

2. Scope of Work

A. General Counsel Services to Be Provided.

General Counsel legal services shall include but are not limited to the following:

- (1) Advising and consulting with the Regional Council and its Committees on legal matters;
- (2) Defending or conducting litigation on behalf of SCAG at the direction of the Regional Council;
- (3) Attending Regional Council meeting and Committee meetings;
- (4) Attending additional meetings with SCAG staff as is requested;
- (5) Providing additional legal services as is requested by Chief Counsel;
- (6) Providing additional services as requested by Regional Council.

B. Commencement of Defense of Litigation.

Prior to commencement of defense of any litigation on behalf of SCAG, General Counsel shall provide to the Regional Council and the legal subcommittee established by the Regional Council, a litigation budget with respect to the approximate legal costs to be incurred and shall provide status updates to the legal subcommittee and the Regional Council as requested.

3. Management of General Counsel Services

- A. General Counsel shall consult, confer and coordinate all work pursuant to this Agreement with SCAG through the Regional Council legal subcommittee, the Chief Counsel and if requested, through the Executive Director. In addition, General Counsel shall copy Chief Counsel as appropriate on all correspondence, pleadings or other communications in connection with any legal services provided under this Agreement.
- B. General Counsel shall submit all invoices to the Regional Council legal subcommittee for review on a time schedule to be determined by the Committee. In addition, General Counsel shall submit all invoices to Chief Counsel for review and approval.
- C. The legal subcommittee of the Regional Council shall determine whether the General Counsel's performance is in accordance with the requirements of this Agreement and is satisfactory. The legal subcommittee shall report to the Regional Council on these matters as required.

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- D. It is agreed that Colin Lennard shall be the General Counsel responsible for providing General Counsel's services pursuant to this Agreement. Other attorney's in the firm may be assigned as deemed necessary after coordination and consultation with Chief Counsel. No change in the designation of General Counsel shall be made without the prior written approval of the Regional Counsel.

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FULBRIGHT & JAWORSKI L.L.P. BILLING RATES

PRESENT HOURLY RATES TO SCAG	FULBRIGHT & JAWORSKI STANDARD HOURLY RATES	PROPOSED RATES TO SCAG
Colin Lennard, Partner\$195 (1990-2004)*	\$465	Blended Rate of \$255
Patricia Chen, Associate\$255	\$320	
Susan Lee, Associate\$175	\$230	
All Other Litigation Partners**\$295 - \$475	\$295 - \$475	
All Other Litigation Associates**\$205 - \$325	\$205 - \$325	

* Colin Lennard has not had any increase in his hourly rate since 1990.
 ** Insurance pays part of litigation hourly rates.

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ATTACHMENT B **LEGAL SERVICES SUBCOMMITTEE**

I. GENERAL

A Legal Services Subcommittee of the Regional Council is hereby established to oversee, review and make recommendations to the Regional Council on legal services provided to SCAG.

II. MEMBERSHIP

The members of the Legal Services Subcommittee shall be the officers of SCAG as provided under the SCAG By-Laws, including the past President. The President shall serve as the Chair of the Subcommittee.

III. MEETINGS

The Legal Services Subcommittee shall meet every other month or as necessary by call of the Chair.

IV. DUTIES OF SUBCOMMITTEE

The duties of the Subcommittee shall include, but not be limited to the following:

- A. Review General Counsel's billing invoices on a time schedule set by the Subcommittee.
- B. Review and make recommendations, if necessary, to the Regional Council on requested reports on legal issues submitted by General Counsel or Chief Counsel.
- C. Review and make recommendations to Regional Council on new Legal Undertakings by SCAG in excess of \$25,000.00 (including litigation), as to whether General Counsel shall provide said new services or whether SCAG shall send out a Request for Proposal (RFP) for said legal services. The RFP, if any, shall conform to SCAG's policies and practices applicable to RFPs.
- D. Review and make recommendations, if necessary, to the Regional Council on legal services agreements entered into by Chief Counsel.
- E. Review and make recommendations to the Regional Council on any other matter referred to the Subcommittee by the Regional Council.
- F. Meeting with General Counsel and Chief Counsel on an as needed basis.

V. LITIGATION REPORTS FROM GENERAL COUNSEL

General Counsel shall submit a report to the Subcommittee on each new litigation matter for SCAG which report shall include the following:

- A. The nature of the litigation.
- B. The proposed estimated legal budget for the litigation.
- C. Qualifications of General Counsel to handle the litigation.